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Thomas H. Majcher, Reg. No. 31,119

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. No. : 10/664,490  
Applicant : John F. Boylan et al.  
Filed : September 17, 2003  
Art Unit : 3731  
Examiner : Mendoza, Michael G.  
Title : EMBOLIC PROTECTION DEVICES

Confirmation No. 4845

Docket No.: : ACSES 65471 (2133XXD)  
Customer No. : 24201

Los Angeles, California  
June 22, 2005

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**TERMINAL DISCLAIMER TO OBVIATE  
A DOUBLE PATENTING REJECTION (37 C.F.R. § 1.321(c))**

Dear Sir:

The owner, Advanced Cardiovascular Systems, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior U.S. Patent No. 6,511,496 issued to Huter et al. on January 28, 2003. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent(s) are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

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In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of the prior patent(s), as presently shortened by any terminal disclaimer, in the event that either later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321(c), has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

The terminal disclaimer fee under 37 C.F.R. § 1.20(d) in the amount of \$130.00 is enclosed herewith. Please charge any additional fees or credit any overpayment to Deposit Account No. 06-2425. A duplicate of this paper is enclosed.

The undersigned is an attorney of record.

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

By: 

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